



**NEW YORK STATE COMMISSION
ON CABLE TELEVISION**

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Executive Director

February 11, 1993

Donna R. Searcy, Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554

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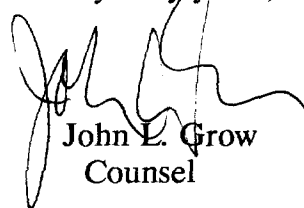
Re: MM Docket No. 92-266

Dear Ms. Searcy:

I am enclosing herewith an original and nine copies of reply comments submitted by the New York State Commission on Cable Television in the above-referenced proceeding.

Please consider this a motion to have these comments accepted out of time. Throughout the course of the many rulemakings required by the 1992 Cable Act, we had relied upon the Downtown Copy Service to provide us with lists of commentors and various copies of comments as requested. As you know -- indeed, as we have learned from you -- and not the Downtown Copy Service -- those duties were recently assigned to a new entity. As a result of the change, we were delayed a few days in obtaining a list of commentors and copies of comments. Accordingly, I would respectfully ask that you permit the filing of these reply comments in this docket out of time. Thank you for your consideration.

Very truly yours,


John L. Grow
Counsel

Encs.

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

FEB 12 1993

FEDERAL BUREAU OF INVESTIGATION
DEPARTMENT OF JUSTICE

In the Matter of

Implementation of Sections of the
Cable Television Consumer Protection
and Competition Act of 1992

Rate Regulation

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MM Docket No. 92-266

FEB 12 1993

**REPLY COMMENTS OF THE NEW YORK STATE
COMMISSION ON CABLE TELEVISION**

New York State Commission
on Cable Television
Corning Tower Bldg.
Empire State Plaza
Albany, New York 12223
(518) 474-4992

Dated: Albany, New York
February 11, 1993

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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FEB 12 1993

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OFFICE OF THE
SECRETARY

In the Matter of

Implementation of Sections of the
Cable Television Consumer Protection
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MM Docket No. 92-266

**REPLY COMMENTS OF THE NEW YORK STATE
COMMISSION ON CABLE TELEVISION**

1. The New York State Commission on Cable Television ("NYSCCT") respectfully submits reply comments in response to the Notice of Proposed Rulemaking ("NPRM") released in this docket December 24, 1992. NYSCCT is an independent Commission with broad authority to promote and oversee the development of the cable television industry in the State of New York. NYSCCT is expressly authorized by Section 815(6) of the Executive Law of the State of New York to represent the interests of the people of the State before the Federal Communications Commission ("Commission").

2. We have had the opportunity to review some of the numerous comments submitted in this proceeding and wish to address certain issues not addressed in our initial comments as well as to revisit certain issues in light of the comments of others.

Regulations Governing Rates of the Basic Service Tier

3. In paragraphs 30 through 61 of the NPRM, the Commission invited comments on various issues raised by the statutory obligation to "ensure, by regulation, that

rates for the basic service tier are reasonable." (Section 623(b)(1)) In the NPRM, the Commission identified two generic approaches for rate regulation -- benchmarking and cost of service -- and tentatively concluded that one of various enumerated benchmarking alternatives should be the primary mode of regulating basic service rates. The Commission concluded, as well, that cost of service regulatory principles may be appropriate where cable operators seek to justify the reasonableness of rates that do not meet the Commission's primary benchmarking standards. The Commission sought comments on these tentative conclusions.

4. Based on our review of a portion of the comments filed in this proceeding, it is apparent that many commentors prefer benchmarking over traditional rate of return or cost of service regulation. However, many of these same parties agree that no single benchmark will be appropriate in all circumstances. Commentors also appear to vary on the preferred means for establishing benchmarks. Indeed, some commentors specifically reserve opinion on the benefits of one benchmark compared to another pending further action by the Commission.

5. NYSCCT agrees with the Commission's observations concerning the costs and burdens of rate base regulation and with the commentors who oppose such methodology. We also agree with many of the commentors that the concept of benchmarking is an appropriate rate-setting method. However, we, too, are unable to embrace but one of the standards proposed as alternatives for establishing benchmarks. For example, we don't believe that there are a sufficient number of systems subject to effective competition to establish a reasonable benchmark for all of the overwhelming majority of

systems that will be subject to regulation under the 1992 Act. Nor do we believe that either past regulated rates or average recent rates offer a singular, self-contained method for establishing a reasonable benchmark that would be fair to all cable companies and subscribers alike. Accordingly, NYSCCT urges the Commission to provide flexibility to state cable regulatory agencies and, perhaps, other franchising authorities, to employ other optional means for establishing benchmarks where such means are both feasible and appropriate and so long as they follow principles and guidelines set forth in Section 623(b) and Commission regulations.

6. NYSCCT, for example, has been empowered by state statute since 1973 to review all cable rates (to the extent consistent with federal law) approved by municipal franchising authorities and to prescribe rates for cable service in certain circumstances. The standards we employed, in performing these tasks, have included "range of reasonableness" and "comparability" based on systems similarly situated. Throughout this period, state law has also authorized NYSCCT to require cable television companies to maintain and file such reports concerning ownership, accounting, auditing and operating performance as NYSCCT deems necessary to administer the provisions of the statute. In this regard, and consistent with its rate regulatory functions, we adopted a uniform accounting system in 1974, which system consists of a detailed aggregation of items affecting property or claims, listed either as debits or credits, and depicting the excess of debits and credits in the form of a balance. These recordkeeping requirements, with minor exceptions, have been applicable to most cable television companies, e.g., those having \$150,000 or more in gross annual revenues. A copy of Part 599, Uniform Accounting System, 9 NYCRR is attached

as Exhibit 1. In addition, jurisdictional cable companies submit annual financial reports to NYSCCT, a copy of which is attached as Exhibit 2.¹

7. We believe that the information thus accumulated positions NYSCCT well to establish or adjust benchmarks to more accurately reflect cable operation in New York State by accommodating certain capital as well as non-capital costs consistent with any Commission guidelines implementing the 1992 Act. Adjustments may be warranted for a number of reasons. One factor of particular interest in New York involves recent, pending and imminent rebuilds or upgrades of cable television systems statewide. The substantial capital costs involved in this construction project will augment the ability of cable operators to provide basic service and other services. Such cost considerations, when coupled with other factors such as the location of a system, household and subscriber density, the nature of construction, as well as the date and terms of acquisition, will vary significantly from company to company even within a state. Ideally, reasonable benchmarks would accommodate such factors, a determination which we believe should be within the realm of discretion of a state regulatory body.

8. Further support for input from states and other franchising authorities stems from the inherent difficulty of addressing the seven factors set forth in Section 623(b)(2)(c). The need to allocate equitably the joint and common costs where the business entity is only partially regulated, is compounded by the "uniformity" requirement. We believe it would be feasible to establish a presumptive rate setting model which incorporates

¹ We support those commentators from other states who urge the Commission to recognize the authority of state franchising authorities to require financial and other data in addition to that which the final Commission rules will mandate.

the variables set forth in the NPRM and allows recovery of fixed costs which have been reported to the NYSCCT and variable costs which occur in the normal course of business. Such a model could be established in the context of a generic proceeding with opportunity for comment by all interested parties. The initial expense of such a proceeding would be minimized as the cost information is substantially compiled. The proceeding could address, as well, appropriate, ongoing adjustments to rates. Such a model, would be easy and inexpensive to administer and with involvement by cable operators and other interested parties could reduce the number of future controversies and complaints.

Small Systems Burdens

9. We also take this opportunity to address the issue of rate regulation as it applies to small systems. Section 623(1)) Section 813(2) of the New York Executive Law exempt from most of New York's statutory requirements those cable companies serving fewer than 1,000 subscribers. As the exemption applies to a cable company, rather than a system, we avoid the problem of distinguishing small, independently owned companies and small systems owned by an otherwise jurisdictional MSO is avoided. Exempt companies do not file annual financial reports with the NYSCCT and are exempted from many franchising requirements and standards, including, inter alia, the need to specify rates in the franchise. Exempt companies are subject to the NYSCCT technical standards and rules governing billing standards and practices (9 NYCRR 596 and 590, respectively). The exemption is granted annually, upon submission of an affidavit certifying that a particular company services fewer than 1,000 subscribers as of December 31 of each year.

10. In respect to accounting and data collection, the NYSCCT has not been hindered by the lack of data or exemption from our Uniform Accounting System. Nor has the NYSCCT experienced an "abrupt or frequent" change in "regulatory status" (NPRM at p. 64). Companies either tend to serve less than 1,000 customers (for geographic or demographic reasons) or they become subject to NYSCCT rules as their subscriber base grows. We assist these companies in the process.

11. For rate setting purposes, the Commission seeks comment upon three options: a presumption that detailed regulatory oversight likely will not benefit subscribers; permitting companies to certify compliance with the Commission's rate regulations; and, rate regulation designed for small systems. Our experience is that detailed regulatory oversight is not required in areas of accounting and data collection. Consumers, however, do benefit from the applicability of our technical standards and consumer rules.

12. Should the Commission determine not to exempt small companies from rate regulation, option three is most appropriate in that it would allow for evaluation and recovery of costs unique to small companies. Again, NYSCCT is in a position to determine these costs and set an appropriate benchmark. Alternatively, the Commission may consider establishing an "ideal small cable company" or "proxy" for purposes of setting rates and collecting data for this group of systems.

Franchise Fee Itemization

13. In our initial comments, we urged the Commission to apply amended Section 622(c) in a manner that would not permit cable operators to claim it as authority to add franchise fees to a subscriber's bill as if they were direct charge upon subscribers.

Many of the comments submitted by cable operators contend that the statute provides otherwise. However, in none of the comments reviewed by NYSCCT did the cable operator choose to address the potential inconsistency that such a billing practice might create with any of its existing specific franchise fee obligations. As noted in comments filed by the Commonwealth of Massachusetts, "if operators are allowed to itemize. . .[the amount of the franchise fee]. . .as a separate 'add on' charge, it effectively allows the operator to reduce the gross revenue on which the franchise fee is based." For the large percentage of franchises that require a fee based on subscriber revenues, such a conclusion is irrebuttable. Accordingly, we resubmit that in order for Section 622(c) to be construed as suggested by cable operators, it must be found that Congress intended to alter the franchise fee obligations of a very high percentage of cable television franchises nationwide. We reiterate our view that this intent is not manifest in either the statutory language or the legislative history.

14. It might be noted here that some cable television franchises in New York State require the payment of a franchise fee based upon a fixed amount per subscriber, per annum. Although we maintain the same objection to the "add on" of such charge in a subscriber's bill, it does present the Commission with the option to construe the statute to permit a franchise fee to be added on where it is a specific amount unrelated to the amount of the subscriber's bill or, possibly, wherever it may be computed on a basis other than revenues of the cable company. Thus, a company that is required to pay \$1.20 per year per subscriber as a franchise fee could add \$.10 to a bill and attribute the same to the franchise fee whereas a fee based on the percentage of gross revenues could not be billed to the

subscriber but would have to be reflected in an information statement. In this regard, we object to those who would characterize the provision of franchise fee information in a legend at the bottom of the bill as "burying" the information somewhere on the bill. Cable operators have not been disinclined in the past to "bury" charges for separate services or equipment in a single un-itemized bill for cable services.

15. Finally, we submit that there is a certain irony in the dimension of the interest by cable operators in franchise fee itemization. Franchise fees were agreed to and paid by cable operators from the earliest days of cable television. It was our experience throughout the 1970's, and indeed throughout much of the 1980's, that the rates for cable systems serving multiple municipalities were invariably uniform notwithstanding unequal franchise fee obligations and that subscriber bills did not identify franchise fees or other items of cost. Only, it seems, in the past 2 or 3 years, after a series of years when overall cable rates exceeded the consumer price index and deregulated cable rates reached levels that generated closer scrutiny by government officials and consumer advocates alike have cable operators determined that the amount attributable to franchise fees was essential information that subscribers should see every month. As we have said on this issue in other contexts, there is no reason why a cable company should not be able to inform subscribers of all matters affecting its rates and costs including the amount of franchise fees. However, when the cable companies insisted that subscribers could not, or would not, become aware of the franchise fee unless it was actually billed directly to each subscriber, the cable operators went too far. They attempted, at one and the same time, to transform a fee imposed on their use of the public rights-of-way for a commercial purpose to a tax imposed

on the purchase of cable service and, in many instances, to reduce unilaterally the amount of the fee.²

Charges for Changes in Subscriber Selection of Services

16. We have had the opportunity to review comments filed by the Cable Television Association of New York, Inc. ("CTANY") the cable television trade association for New York State cable operators. The comments are addressed exclusively to Section 623(b)(5)(C) of the Cable Act of 1992. Subsection (b) is entitled "Establishment of Basic Service Tier Rate Regulations." Paragraph (5) of Section 623(b) provides that:

"the regulations prescribed by the Commission under this subsection shall include additional standards, guidelines and procedures concerning the implementation and enforcement of such regulations, which shall include - (c) standards and procedures to prevent unreasonable charges for changes in the subscriber's selection of services or equipment subject to regulation under this section, which standards shall require the charges for changing the service tier selected shall be based on the cost of such change and shall not exceed nominal amounts when the system's configuration permits changes in service tier selection to be affected solely by coded entry on a computer terminal or by other similarly simple methods;. . ."

² In New York State, yet another unwarranted consequence of billing subscribers for franchise fees is suggested. Under New York State tax law, cable operators, for the most part, enjoy a statutory credit for franchise fees paid to a local taxing jurisdiction against a special real property tax imposed on the value of tangible cable television company property located in the public right-of-way in such taxing jurisdiction. The assumption of the statute is that the cable companies pay the franchise fee. Once the cable company chooses to add the franchise fee to the cable bill and bill it directly to subscribers, can it be said that the fee is paid by the cable company? And why should such a company be entitled to a credit for a tax liability of its own based on fees paid by its customers? In the final analysis, the National Association of Telecommunications Officers and Advisors, *et al.*, suggests the proper prospective on the issue when it identifies in its comments a litany of other costs which the Commission should require a cable operator to disclose on its bill.

In our initial comments, we reviewed provisions of New York State law which required cable television companies to provide subscribers with notice of substantial changes affecting the programming offered on a service tier, including the removal of a programming network from the cable system or the movement of a programming network from one service tier to another. Specifically, the law permits a subscriber affected by such change to react thereto by downgrading or terminating service without charge within 45 days of such change. We also noted that NYSCCT has a rule providing that any subscriber who maintains the same level of cable service for a period of six continuous months may not be charged for downgrading service thereafter. This rule was adopted to prevent cable operators from "penalizing" subscribers for reducing services levels consistent with the cable operator's legitimate concern over "churn."

17. CTANY contends that Section 623(5)(c) reflects a determination by Congress that charges for changing services, including downgrades, should be based on cost and that within the broad category of all downgrades, any downgrade that may be simply affected by coded entry on a computer terminal shall not exceed "nominal amounts." CTANY cites our regulation which prohibits all downgrade charges for those who subscribe more than six months and argues that the same is inconsistent with the new federal statute and that the Commission should preempt state and local prohibition of charges for downgrades. CTANY also suggests that cable operators who are prohibited from charging for downgrades must recapture the costs thereof in other rates and charges, including rates that are subject to regulation under Section 623(b), and that such companies will be

prejudiced if they are unable to meet a benchmark rate by reason of the inclusion of downgrade costs in the regulated rate.

18. At the outset, we note that CTANY does not distinguish between downgrades that may occur independent of any change in rates, programming services or retiering and that it does not compare or extend its analysis with, or to, costs or charges for the complete termination of cable service by a subscriber. In respect to the former, we reiterate that subscribers should be able to adjust their subscription levels in response to the loss of a programming network without charge. This is a common sense consumer protection measure, not a rate regulation issue. In respect to the latter, we doubt whether CTANY would contend that its member companies must now necessarily charge full cost for terminating service or that Section 623, by its silence, permits cable operators total discretion to impose any charge it chooses for termination.

19. Second, we observe that Section 623(b)(5)(c) is a peculiar provision. By its terms, it would appear to apply to any change in service from any tier of service to any other tier of service and whether such change causes a selection of new programming not previously received or a reduction in programming received. Yet, it is contained within Section 623(b) which is not only entitled "Establishment of Basic Service Tier Rate Regulations" (emphasis added) but is the only subsection which arguably would apply to the purchase of service tiers other than basic service. At the same time, a wholly-different subsection Section 623(c) applies to unreasonable rates for cable programming services. The term "cable programming service" is defined in yet another section -- Section 623(l)(2)

-- to mean video programming, regardless of service tier, including installation and rental of equipment used for the receipt of such programming other than video programming on a basic service tier or per-channel or per-program basis. Thus, it would seem that Section 623(b)(5)(c) is in conflict not only with Section 623(c) to the extent that they both would appear to apply to the selection of cable programming service tier but that is also in conflict with the balance of Section 623 including specifically Section 623(l)(2), which precludes regulation of the rates for the selection of video programming offered on a per-channel or per-program basis.

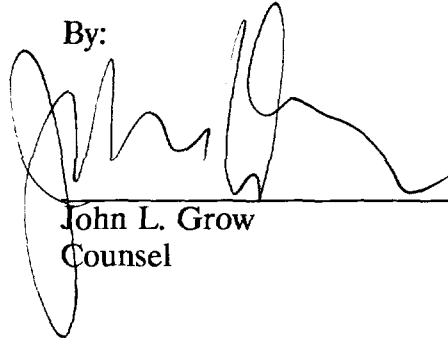
20. If, and we emphasize if, these provisions can be reconciled with one another, it must be argued that in enacting Section 623(b)(5)(c) Congress has equated the public interest in subscribers' ability to purchase more service tiers at higher prices, with the public interest in subscribers' ability to reduce levels of programming and their monthly cable bill and, according to CTANY, without any consideration of the special circumstances surrounding the decision to reduce services. NYSCCT simply cannot accept this result and we question whether cable operators would accept a result which would seemingly impair their ability to impose reasonable charges for purchasing or upgrading to unregulated per-channel premium services. Rather, we think that the overriding concern of Congress in enacting this provision was to limit the authority of cable companies to impose charges on the decision by a subscriber to reduce the amount or level of programming received and that provisions of New York State law and NYSCCT rules that prohibit downgrade charges

under certain circumstances do not offend this objective and remain otherwise valid as reasonable consumer protection measures.

Respectfully submitted,

NEW YORK STATE COMMISSION
ON CABLE TELEVISION

By:



John L. Grow
Counsel

Dated: Albany, New York
February 11, 1993

EXHIBIT 1

PART 599

UNIFORM ACCOUNTING SYSTEM

(Statutory authority: Executive Law, art. 28, § 816)

Sec.
599.10 Uniform accounting system definitions
599.20 Applicability of recordkeeping requirements
599.21 Conversion of accounts to the uniform accounting system
599.30 Structure of accounts
599.31 Index to prescribed accounts
599.32 Chart of accounts
599.33 Description of uniform accounting system accounts

Sec.
599.40 Application instructions
599.80 Filing of financial reports - general
599.81 Selection of fiscal year
599.82 Different reports to be filed
599.83 Nature of filed reports
599.84 Consolidated financial reports
599.90 Obligation of cable television company to notify commission

Historical Note

Part (§§ 599.10, 599.20-599.21, 599.30-599.33, 599.40, 599.90)
filed Dec. 10, 1974.

Section 599.10 Uniform accounting system definitions.

(a) The definitions in this section shall be read in conjunction with all other sections of the UAS in determining the appropriateness of any particular financial entry or report prepared from such financial entry.

(b) The following definitions contained in section 812 of article 28 of the Executive Law are applicable:

- (1) *Cable television company* shall mean any person owning, controlling, operating, managing or leasing a cable television system within the State.
- (2) *Cable television system* shall mean any system which operates for hire the service of receiving and amplifying programs broadcast by one or more television and/or radio stations and any other programs originated by a cable television company or by wire, cable, microwave or other means, whether such means are owned or leased, to persons who subscribe to such service. Such definition does not include:
 - (i) any system which serves fewer than 50 subscribers; or
 - (ii) any master antenna television system.
- (3) *Commission* shall mean the Commission on Cable Television created by this article.
- (4) *Municipality* shall mean any village, town, city or county not wholly contained within a city in the State.
- (5) *Person* shall mean any individual, trustee, partnership, association, corporation or other legal entity.
- (6) *Consolidated financial reports*. Reports showing the operating results or financial position of a group of companies under common ownership or control. Such reports are intended to reflect the operating or financial position of the group as a single entity. The preparation of a consolidated financial report involves elimination of all intercompany accounts, investments, sales, advances and interests of an intercompany nature.
- (7) *Depreciation*. The loss, determined on a rational basis, of service value not restored by current maintenance, incurred in connection with the consumption or prospective retirement of operating property in the course of service from causes known to be in current operation, against which the company is not protected by insurance, and the effect of which can be forecast with a reasonable degree of accuracy. Among causes to be given consideration are wear and tear, decay, action of the elements, inadequacy, obsolescence, changes in the art, changes in demand, and the requirements of public authorities, when appropriate.

(8) *Equity.* Any right or claim to assets or interest in property or a business, subject to prior creditors. As used in the UAS, equity refers to the interest of a stockholder in a corporation or proprietor or partner in an unincorporated company or other entity.

(9) *Fiscal year.* A 12-month period other than a calendar year.

(10) *Generally accepted accounting principles and practices.* Principles and practices that would be followed in posting financial transactions or preparing financial statements that would generally be acceptable to any other accountant. Such generally accepted accounting principles would be those enumerated by the Accounting Principles Board (APB) and its successor, the Financial Accounting Standards Board (FASB).

(11) *Gross annual revenues.* All revenues from any source, determined on the accrual basis according to generally accepted accounting principles.

(12) *Liability.* An amount owing to another; the title of the credit side of the balance sheet where obligations and equity are shown.

(13) *Original cost.*

(i) The cost, incurred by the first cable television company, of equipment and/or other assets used for the purpose of providing cable television service in New York State. This includes the cost (at arm's-length) of all material, equipment, overhead and labor.

(ii) Prior to January 1, 1974, original cost shall be determined in conformity with generally accepted accounting principles. Beginning January 1, 1974, original cost shall be determined as provided in the first sentence of this definition but it shall not apply to a company which is a cable television company solely by reason of its ownership or control of another cable television company.

(14) *Subsidiary.* A company owned or controlled by another company.

(15) *Uniform accounting system.* The accounting and financial recordkeeping and reporting requirements prescribed by the commission. The uniform accounting system is commonly abbreviated "UAS".

(c) The following definitions apply to words and phrases used in this Part:

(1) *Accounts.* The accounts prescribed in the UAS unless another meaning is clearly implied. The accounts will consist of a detailed aggregation of items affecting property or claims, listed either as debits or credits, and showing an excess of debits or credits in the form of a balance.

(2) *Accrual basis of accounting.* A method of accounting under which revenues are recognized when earned or realized, and expenses are recorded, when incurred, regardless of the flow of cash.

(3) *Affiliated company.* Any person that directly or indirectly, or through one or more intermediaries, controls, is controlled by, or is under common control with, another person. (See definition of person in paragraph [b][5] of this section.) A controlling interest exists when more than 50 percent of the voting stock or other proprietorship interest is held by any one person. In addition, the commission may find existence of a controlling interest in situations where 50 percent or less of the voting stock or other proprietorship interest is held by any one person, depending on the particular facts and circumstances and the relationship of the parties.

(4) *Amortization.* The gradual extinguishment, on a rational method or basis, of an amount in an account by distributing such amount over a period, over the life of the asset or liability to which it applies, or over the period during which it is anticipated the benefit will be realized.

(5) *Asset.* A tangible or intangible property right or value acquired, or an expenditure made which has created a property right, or is properly applicable to the future.

(6) *Books.* Books of accounts.

Historical Note
Sec. filed Dec. 10, 1974.

599.20 Applicability of recordkeeping requirements.

(a) *Recordkeeping requirements - large companies.*

(1) Every cable television company having \$150,000 or more in gross annual revenues shall, in accordance with section 599.21 of this Part, adopt the accounts prescribed in section 599.32 of this Part.

(i) If a cable television company had \$150,000 or more in gross annual revenues during its last fiscal year ended on or before December 31, 1972, such company shall adopt the prescribed accounts as of not later than January 1, 1974.

(ii) Except as provided in subparagraph (i) of this paragraph, any cable television company having \$150,000 or more in gross annual revenues shall adopt the prescribed accounts as of the start of its first fiscal year beginning on or after March 31, 1975.

(2) If the combined gross annual revenues of an affiliated group of companies are \$150,000 or more, each and every cable television company included in the group shall maintain its books of account in accordance with section 599.21 of this Part and adopt the accounts prescribed in section 599.32 of this Part; provided, however, that an affiliate which is not a cable television company need not maintain its books of account in accordance with the UAS and adopt the prescribed accounts.

(3) No cable television company having been required to adopt the prescribed accounts may thereafter discontinue use of such accounts without prior written approval of this commission.

(b) *Recordkeeping requirements - all companies.*

(1) Every cable television company shall maintain such books and records as will clearly and accurately disclose the condition and results of the business and shall comply with the application instructions in section 599.40 of this Part.

(i) The books of account shall include, but may not be limited to the following:

(a) general ledger consisting of assets, liabilities, equity, revenue and expense accounts;

(b) plant and equipment ledger except as provided in section 599.30(c) of this part; and

(c) corporate minute book.

(ii) The retention period for books and records will be as follows:

Records	Retention period
1. General ledger	Permanent
2. Plant and equipment ledger	Permanent
3. Corporate minute book	Permanent
4. Bank statement, cancelled checks, savings passbooks, etc.	3 years*
5. Vouchers, invoices, sales slips, etc.	3 years*
6. Customer billings, receipts etc.	3 years
7. Construction contracts	12 years
8. Loan agreements	3 years after expiration of loan period or repayment, whichever is first*
9. Payroll records	3 years*

(iii) All books of account and related records as described in this subdivision shall be made available for examination within New York State, upon reasonable notice, in not to exceed 15 days.

(c) *Exemptions and prohibitions.*

(1) A person who is a cable television company solely by reason of its ownership or control of another cable television company need not maintain its books of account in accordance with the UAS and adopt the prescribed accounts. An affiliate of a cable television company need not adopt the prescribed accounts unless it is providing cable television service to New York subscribers and meets the requirements of subdivision (a) of this section.

(2) No franchising municipality or local governmental unit shall prescribe any system of accounts for use by a cable television company if the company shall adopt and use the accounts prescribed in the UAS. (This paragraph shall not be construed as preventing a franchising municipality or local governmental unit from requiring financial or other data and/or reports to satisfy its informational needs or from mandating the use of the prescribed accounts.)

(d) *Recordkeeping requirements - specified companies.* Any person who is a cable television company and files a consolidated AFR or who excludes cable television activities originating outside of New York State, pursuant to section 599.82 of this Part, or excludes activities arising from noncable television activities originating within New York State from inclusion on part II of its AFR, pursuant to section 599.83 of this Part, shall maintain its books and records in accordance with section 599.40(h) of this Part. The books and records shall be maintained so that the activities of each company are separately identifiable.

Historical Note

Sec. filed Dec. 10, 1974; amds. filed June 26, 1975; Feb. 11, 1986 eff. Feb. 11, 1986. Added (d).

* Records pertaining to construction or purchase of additional plant equipment or replacement of plant equipment should be retained for 12 years.

599.21 Conversion of accounts to the uniform accounting system.

(a) When a cable television company is first required to maintain books of account using the prescribed system, it shall classify, set forth and carry in the manner prescribed by the UAS, all revenues, expenses, assets, liabilities, capital stock or proprietorship interest and surplus existing as of that date on its books of accounts except that:

- (1) The company may maintain its existing books of account, or any other books of account, provided it shall promptly, at the close of each calendar year, adjust all account balances and transaction totals for the year so as to conform with the requirements of the UAS. The adjusted account balances and transaction totals shall then be posted to the prescribed accounts.
- (2) The balances on the books immediately prior to conversion to the UAS may be adjusted, consolidated or transferred as required in order to post them to the prescribed accounts or other accounts. When account balances contain amounts other than what would be allowed under the prescribed system and such balances derive from transactions occurring on or before December 31, 1973, or such balances originated prior to the company first commencing business in New York, the company may adjust balances to reflect the manner in which they would be carried had the prescribed system been in effect as of the date the originating transaction occurred. If the accounts are not voluntarily restated in this manner, the commission may require such a restatement in appropriate circumstances.
- (3) All work papers used in converting account balances and transaction totals shall be permanently maintained as part of the general ledger.
- (4) If account balances and transaction totals are not posted directly to the prescribed accounts but are posted from entries or totals contained in another system of accounts (as provided for in paragraph (2) of this subdivision), such books, including general and subsidiary ledgers and supporting books and records shall be preserved as long as the books of account prescribed by the UAS are preserved.

(b) All prescribed accounts, or other accounts, and reports prepared from those accounts shall reflect the accrual basis of accounting. If the cash basis of accounting is used during the year, the account balances and transaction totals shall be converted at year-end to the accrual basis. Generally accepted accounting principles shall be used in establishing the accounting treatment of any financial transaction, except that the commission may require such accounting treatment as will yield information necessary to a proper discharge of the commission's responsibilities.

Historical Note
Sec. filed Dec. 10, 1974.

599.30 Structure of accounts.

(a) The UAS will consist of a series of general accounts and in most cases, subsidiary accounts. Additional subsidiary accounts may be provided by the company as management requires, provided no such subsidiary account interferes with, or otherwise prevents, the accumulation of data as provided for in the officially prescribed accounts.

(b) A series of clearing accounts is provided for the temporary accumulation and distribution of costs to asset and expense accounts. Additional clearing accounts may be provided by the company as management requires provided that the balances of all such clearing accounts are distributed at year-end to asset and expense accounts and no balance then remains.

(c) The plant and equipment ledger shall reflect to that degree of detail sufficient to permit the selection of a depreciation method and satisfy the informational needs of other State and local government agencies, all plant and equipment in use by the company. The accounts in the plant and equipment ledger shall be equal to the corresponding accounts in the general ledger which shall act as control accounts. If the general ledger is sufficiently detailed that it meets the above standards, the commission shall dispense with the requirement that a separate plant and equipment ledger be kept.

(d) The UAS account number is composed of five digits, four whole numbers and one decimal number which is illustrated below for account 5101.1, Salaries and wages of officers and directors.

Account Number

5 = General account category	i.e. Cost of operations
1 = Group	i.e. Service costs
0 = Component	i.e. Not used in illustration
1 = Item	i.e. Salaries and wages
. = Decimal	i.e. Dividers
1 = Sub item	i.e. Officers

- (1) *General account category.* This describes the nature of the account and is the most inclusive level of detail provided, i.e., indicates whether an account reflects assets, liabilities, revenue, etc.
- (2) *Group.* Indicates a subdivision of the general account category into the next lowest level for accumulating data, i.e., current assets as part of assets; current liabilities as part of liabilities.
- (3) *Component.* Identifies the specific character of the account, that is, the type of cost, asset, etc.
- (4) *Item.* This is normally the lowest level of detail provided. It simply subdivides each component into the next lowest level for analytical purposes, i.e., accrued expenses may be further subdivided into accrued payroll, etc.
- (5) *Decimal.* This simply divides the normal level of detail from optional levels of data.
- (6) *Subitem.* Identifies a subdivision of the item into the next lowest level for analytical purposes, i.e. (See accounts for salaries and wages.)

(e) The uniform accounting system has been so structured as to facilitate expansion to meet the needs of either the cable television company or the commission. This has been accomplished by allowing the addition of identifiers after the decimal point in any account except where an identifier has been prescribed. To further expand the numbering system for more detailed analysis, simply add another digit, right-justified to any account.

(f) For analytical purposes, various natural items of cost such as postage, telephone and telegraph, etc. have been given identical component and item digits in the account numbering system. (See section 599.33 of this Part, account 5000.0.) This allows either a company-wide accumulation of such costs or the selective accumulation of these expenses by cost centers or in any manner desired.

Historical Note

Sec. filed Dec. 10, 1974; amd. filed June 26, 1975. Amended (c).

599.31 Index to prescribed accounts.

ACCOUNT NUMBERS		
GENERAL	SUBSIDIARY*	DESCRIPTION
0XXXXX	XX	PLANT AND EQUIPMENT*
1000	XX	ASSETS
2000	XX	LIABILITIES
3000	XX	OWNER'S EQUITY
4000	XX	OPERATING INCOME
5000	XX	COST OF OPERATIONS
6000	XX	OTHER INCOME AND OTHER EXPENSES
7000	XX	PROVISION FOR FEDERAL AND STATE INCOME TAXES
8000	XX	EXTRAORDINARY ITEMS
9000	XX	CLEARING ACCOUNTS**

* Subaccounts to provide for additional detail as required.

** As required.

Historical Note
Sec. filed Dec. 10, 1974.

599.32 Chart of accounts.

ACCOUNT NUMBERS		
GENERAL	SUBSIDIARY	
1000.0		ASSETS
1100.0		Current Assets
1110.0		Cash
	1111.0	Petty cash
	1112.0	Bank accounts
	1113.0	Cash on hand
1120.0		Short-term investments
1130.0		Accounts receivable - trade
	1139.0	Allowance for doubtful accounts - trade
1140.0		Other receivables
	1141.0	Interest
	1142.0	Other
	1149.0	Allowance for doubtful accounts - other
1150.0		Inventory
1160.0		Broadcasting rights
1170.0		Prepaid expenses
	1171.0	Taxes
	1172.0	Franchise Payments
	1173.0	Insurance
	1174.0	Rent
	1175.0	Interest
	1176.0	Expense advances
	1177.0	Other
1180.0		Other current assets
1200.0		Fixed Assets
1210.0		Land

1220.0		Buildings
1230.0		Head-end
1240.0		Trunk and Distribution System
	1241.0	Subscriber Devices
	1242.0	Other
1250.0		Test Equipment and Tools
1260.0		Program Origination Equipment
1270.0		Vehicles, Furniture and Fixtures
	1271.0	Vehicles
	1276.0	Furniture and Fixtures
1280.0		Capitalized Leased Property
1290.0		Leasehold Improvements
1299.0		Miscellaneous Equipment
1300.0		<i>Construction Work in Progress</i>
1400.0		<i>Allowance for Accumulated</i>
		<i>Depreciation and Amortization</i>
1410.0		Allowance for Accumulated Depreciation
1420.0		Allowance for Accumulated Amortization
1500.0		<i>Plant Adjustments</i>
1510.0		Plant Adjustment Excess Fair Value
1520.0		Plant Adjustment Goodwill
1600.0		<i>Other Assets</i>
1610.0		Intangible Assets
	1611.0	Franchises, Licenses and Permits
	1612.0	Other Intangible Assets
	1613.0	Goodwill
1620.0		Deferred Charges
	1621.0	Start-up Costs
	1622.0	Unamortized Debt Expense
	1623.0	Other Deferred Costs
1630.0		Long-Term Investments
1640.0		Organization Costs
1650.0		Other Assets
2000.0		LIABILITIES
2100.0		<i>Current Liabilities</i>
2110.0		Loans Payable
	2111.0	Short-Term Notes
	2112.0	Current Portion of Long-Term Debt
2120.0		Subscriber Advance Payments and Deposits
	2121.0	Subscriber Advance Payments
	2122.0	Subscriber Deposits
2130.0		Accounts Payable
2140.0		Taxes and Other Withholdings
	2141.0	Federal Income Tax
	2142.0	State Income Tax
	2143.0	Local Taxes
	2144.0	F.I.C.A.
	2145.0	Employee Authorized Deductions
	2146.0	Other Withholdings
2150.0		Accrued Expenses
	2151.0	Accrued Payroll

	2152.0		Accrued Payroll Taxes
	2153.0		Accrued Rent
	2154.0		Accrued Franchise Payments
	2155.0		Accrued Interest
	2156.0		Other Accrued Expenses
2160.0			Accrued Taxes
	2161.0		Accrued State and Local Taxes
	2162.0		Accrued Federal Income Taxes
2170.0			Other Current Liabilities
2180.0			Dividends Payable
2200.0			Reserved for Future Issuance
2300.0			<i>Long-Term Debt</i>
2310.0			Notes Payable
2320.0			Bonds Payable
2330.0			Obligation on Capitalized Leases
2340.0			Unamortized Premium and Discount on Outstanding Debt
2400.0			<i>Operating Allowances</i>
2410.0			Property Insurance Allowance
2420.0			Injury and Damage Allowance
2430.0			Pension and Benefit Allowance
2440.0			Miscellaneous Operating Allowance
2500.0			<i>Other Non-Current Liabilities</i>
3000.0			OWNER'S EQUITY
3100.0			<i>Common Stock-Issued</i>
3200.0			<i>Preferred Stock-Issued</i>
3300.0			<i>Treasury Stock</i>
3400.0			<i>Proprietor's Equity</i>
3500.0			<i>Additional Paid-in Capital</i>
3600.0			<i>Retained Earnings</i>
3610.0			Appropriated Retained Earnings
3620.0			Unappropriated Retained Earnings
3700.0			<i>Proprietor's Withdrawals</i>
4000.0			OPERATING INCOME
4100.0			<i>Subscriber Revenues</i>
	4110.0		Installation Income
	4120.0		Regular Subscriber Charges
	4130.0		Per Program or Per Channel Charges
	4140.0		Other Subscriber Revenues
4200.0			<i>Non-Subscriber Revenues</i>
	4210.0		Advertising Income
	4220.0		Special Service Income
	4230.0		Other Non-Subscriber Revenues
5000.0			COST OF OPERATIONS
5100.0			<i>Service Costs</i>
	5101.0		Salaries and Wages
		5101.1	Salaries and Wages-Officers and Directors
		5101.2	Salaries and Wages-All Others
	5102.0		Employee Benefits
		5102.1	Employee Benefits-Officers and Directors

		5102.2	Employee Benefits-All Others
	5103.0		Maintenance
	5104.0		Pole and Site Rentals
	5105.0		Microwave Service
	5106.0		Light, Heat and Power
	5107.0		Vehicle Expense
	5108.0		Rent
	5129.0		Tariff and Leaseback Charges
	5180.0		Other
	5190.0		Capitalized Cost Offsets
5200.0			<i>Origination Expense</i>
	5201.0		Salaries and Wages
		5201.1	Salaries and Wages-Officers and Directors
		5201.2	Salaries and Wages-All Others
	5202.0		Employee Benefits
		5202.1	Employee Benefits-Officers and Directors
		5202.2	Employee Benefits-All Others
	5203.0		Maintenance
	5208.0		Rent
	5222.0		Technical and Creative Services
	5223.0		Film Expenses
	5224.0		Studio Sets and Props
	5225.0		Program Materials and Supplies
	5226.0		News Services
	5227.0		Participation Expense
	5228.0		Fees and Royalties
	5280.0		Other
	5290.0		Capitalized Cost Offsets
5300.0			<i>Selling, General and Administrative Expense</i>
	5301.0		Salaries and Wages
		5301.1	Salaries and Wages-Officers and Directors
		5301.2	Salaries and Wages-All Others
	5302.0		Employee Benefits
		5302.1	Employee Benefits-Officers and Directors
		5302.2	Employee Benefits-All Others
	5306.0		Light, Heat and Power
	5307.0		Vehicle Expense
	5308.0		Rent
	5309.0		Travel and Entertainment
	5310.0		Dues and Subscriptions
	5311.0		Contributions
	5312.0		Professional Services
	5313.0		Stationery and Supplies
	5314.0		Postage and Freight
	5315.0		Advertising and Promotion
	5316.0		Telephone and Telegraph